

**United States Department of Labor  
Employees' Compensation Appeals Board**

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**T.D., Appellant**

**and**

**DEPARTMENT OF VETERANS AFFAIRS,  
JESSE BROWN VA MEDICAL CENTER,  
Chicago, IL, Employer**

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**Docket No. 21-0377  
Issued: August 25, 2021**

*Appearances:*

*Alan J. Shapiro, Esq., for the appellant<sup>1</sup>  
Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On January 21, 2021 appellant, through counsel, filed a timely appeal from a January 4, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>2</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

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<sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>2</sup> 5 U.S.C. § 8101 *et seq.*

## **ISSUE**

The issue is whether appellant has met his burden of proof to establish a left hand condition causally related to the accepted August 25, 2018 employment incident.

## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On September 14, 2018 appellant, then a 65-year-old housekeeper, filed a traumatic injury claim (Form CA-1) alleging that on August 25, 2018 he sustained a left hand contusion, which developed into a cyst when he struck his left hand on a connecting pole when reattaching a footboard to a bed while in the performance of duty. He did not stop work.

In a report dated October 22, 2018, Dr. Paul E. Papierski, a Board-certified orthopedic hand surgeon, diagnosed left wrist ganglion and post-traumatic osteoarthritis of the left wrist. Appellant reported that he struck the palm of his hand on a bed in August 2018 while at work and later developed a mass to his volar wrist. He also reported some numbness and weakness.

By decision dated October 24, 2018, OWCP denied appellant's claim, finding that the August 25, 2018 employment incident occurred as alleged, but the medical evidence of record was insufficient to establish causal relationship between the diagnosed left hand conditions and the accepted August 25, 2018 employment incident.

On November 19, 2018 appellant requested reconsideration. He submitted an October 22, 2018 report from Dr. Papierski who reiterated his diagnoses and noted that an x-ray performed on September 14, 2018 revealed mild scaphoid widening, partial lunotriquetral coalition, and a chronic ulnar styloid separation. In an addendum dated November 3, 2018, noted at the bottom his previous October 22, 2018 report, Dr. Papierski directed that appellant had a traumatic injury to the left wrist and the development of either a hematoma, which is encapsulated, or a cyst as a result of injury from August 2018. He further advised that a magnetic resonance imaging (MRI) scan was indicated to fully evaluate the injury.

By decision dated February 14, 2019, OWCP denied modification of its October 24, 2018 decision.

On May 20, 2019 appellant, through counsel, requested reconsideration and submitted an April 16, 2019 MRI scan of the left wrist.<sup>4</sup>

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<sup>3</sup> Docket No. 20-0044 (issued May 19, 2020).

<sup>4</sup> The MRI scan demonstrated a large, mildly complex cyst at the volar and ulnar aspect of the left wrist, compatible with a mildly complex ganglion cyst, chronic fracture deformity of the triquetrum, scaphoid, and ulnar styloid, chronic tear of the scapholunate ligament, distal radial ulnar joint effusion, and marked diffuse thinning of the triangular fibrocartilage disc.

By decision dated August 15, 2019, OWCP denied modification of its February 14, 2019 decision.

On October 4, 2019 appellant appealed to the Board. By decision dated May 19, 2020, the Board affirmed the decision dated August 15, 2019, finding that appellant had not met his burden of proof to establish a left hand condition causally related to the accepted August 25, 2018 employment incident.<sup>5</sup>

Appellant continued to submit additional evidence. On May 7, 2019 Dr. Papierski treated appellant for left hand numbness and left wrist mass. Appellant reported that on August 26, 2018 he struck the palm of his hand on a bed at work and developed a mass on the volar wrist. Dr. Papierski reviewed an MRI scan of the left wrist that revealed degenerative changes with a ganglion cyst on the volar ulnar. He diagnosed ganglion, left wrist and post-traumatic osteoarthritis of the left wrist and recommended surgical excision of the cyst. On June 5, 2019 Dr. Papierski performed an excision of ganglion, left wrist, and arthroscopy of the left wrist with extensive debridement, synovitis, arthritis, and triangular fibrocartilage complex tear (TFCC). He diagnosed left wrist ganglion, left wrist arthritis, radioscaphoid joint, and left wrist TFCC tear, central perforation. Dr. Papierski continued to treat appellant from June 11 through August 22, 2019 and noted improvement in his condition with occupational therapy. He diagnosed excision of ganglion left wrist and left wrist arthroscopy, extensive debridement, synovitis, arthritis, and TFCC tear.

In a report dated June 23, 2020, Dr. Papierski provided further clarification of the causal relationship between appellant's left hand condition and the August 25, 2018 employment incident. He noted that appellant presented on October 22, 2018 with a mass on the left wrist, which developed after he struck the palm of his hand on a bed while at work. An MRI scan revealed a mass on the right bowler wrist, arthritis, and a TFCC tear. On June 5, 2019 Dr. Papierski excised the cyst. He related that, prior to the August 2018 injury, appellant had no right wrist problems. Dr. Papierski opined that a direct blow to this area would cause injury to the cartilage and in this case the pisiform triquetrum joint. He further advised that this would cause swelling or the production of fluid which, in this case, became excessive and escaped to the pisiform triquetrum joint and expanded into the volar wrist area. Dr. Papierski discussed the causation for ganglion cysts and cited to an American Medical Association, *Guides to the Evaluation of Disease and Injury Causation*, which related that many ganglion cysts form after trauma to or degeneration of the tissue layer responsible for producing synovial fluid. He opined that this was consistent with appellant's medical history as well as the MRI scan and operative findings. Dr. Papierski concluded that the injury of August 2018 was a direct blow trauma and was enough to set this process in motion.

On October 7, 2020 appellant through counsel, requested reconsideration.

By decision dated January 4, 2021, OWCP denied modification of the decision dated August 15, 2019.

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<sup>5</sup> Docket No. 20-0044 (issued May 19, 2020).

## **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>6</sup> has the burden of proof to establish the essential elements of his or her claim, including the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA,<sup>7</sup> that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.<sup>8</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>9</sup>

To determine if an employee has sustained a traumatic injury in the performance of duty, OWCP begins with an analysis of whether fact of injury has been established. Fact of injury consists of two components that must be considered in conjunction with one another. The first component is whether the employee actually experienced the employment incident that allegedly occurred.<sup>10</sup> The second component is whether the employment incident caused a personal injury.<sup>11</sup>

Rationalized medical opinion evidence is required to establish causal relationship. The opinion of the physician must be based on a complete factual and medical background, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment incident.<sup>12</sup> Neither the mere fact that, a disease or condition manifests itself during a period of employment, nor the belief that the disease or condition was caused or aggravated by employment factors or incidents is sufficient to establish causal relationship.<sup>13</sup>

In any case where a preexisting condition involving the same part of the body is present and the issue of causal relationship therefore involves aggravation, acceleration, or precipitation, the physician must provide a rationalized medical opinion that differentiates between the effects of the work-related injury or disease and the preexisting condition.<sup>14</sup>

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<sup>6</sup> 5 U.S.C. § 8101 *et seq.*

<sup>7</sup> *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>8</sup> *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>9</sup> *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

<sup>10</sup> *T.M.*, Docket No. 19-0380 (issued June 26, 2019); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>11</sup> *M.H.*, Docket No. 18-1737 (issued March 13, 2019); *John J. Carlone*, 41 ECAB 354 (1989).

<sup>12</sup> *S.S.*, Docket No. 18-1488 (issued March 11, 2019).

<sup>13</sup> *J.L.*, Docket No. 18-1804 (issued April 12, 2019).

<sup>14</sup> *J.F.*, Docket No. 19-0456 (issued July 12, 2019); *see also M.O.*, Docket No. 18-0229 (issued September 23, 2019); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3e (January 2013).

## **ANALYSIS**

The Board finds that this case is not in posture for decision.

In a report dated June 23, 2020, Dr. Papierski noted that appellant worked as a housekeeper and on August 25, 2018 he struck the palm of his left hand on a bed and subsequently developed a mass on the left wrist. He opined that a direct blow to this area would cause injury to the cartilage and pisiform triquetrum joint. Dr. Papierski explained that the trauma would cause swelling or the production of fluid which, in this case, became excessive and escaped to the pisiform triquetrum joint and expanded into the volar wrist area causing a mass. He opined that ganglion cysts generally form after trauma to or degeneration of the tissue layer responsible for producing synovial fluid. Dr. Papierski opined that this was consistent with appellant's medical history as well as MRI scan and operative findings. He concluded that the injury of August 2018 was a direct blow trauma and was enough to set this process in motion. Dr. Papierski provided a proper factual and medical history of injury and directly opined that the direct blow to appellant's palm on August 25, 2018 was the competent producing cause of his diagnosed ganglion cyst.

The Board finds that the June 23, 2020 report of Dr. Papierski is sufficient to require further development of the medical evidence to see that justice is done.<sup>15</sup> Dr. Papierski relied upon a proper history of injury and provided a pathophysiological explanation as to how the accepted employment incident on August 25, 2018 was sufficient to have caused the diagnosed conditions. The Board has long held that it is unnecessary that the evidence of record in a case be so conclusive as to suggest causal connection beyond all reasonable doubt. Rather, the evidence required is only that necessary to convince the adjudicator that the conclusion drawn is rationale, sound, and logical.<sup>16</sup> Dr. Papierski's opinion is not contested by other medical evidence of record.

It is well established that proceedings under FECA are not adversarial in nature and, while appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence.<sup>17</sup>

On remand OWCP should refer appellant to a specialist in the appropriate field of medicine, along with the case record and a statement of accepted facts, for a well-rationalized opinion regarding whether he sustained a left wrist ganglion cyst causally related to the accepted employment incident on August 25, 2018. If the physician opines that the left wrist ganglion cyst is not causally related to the accepted employment incident, he or she must explain with rationale how or why their opinion differs from that of Dr. Papierski. After this and such other further development as OWCP deems necessary, it shall issue a *de novo* decision.

## **CONCLUSION**

The Board finds that this case is not in posture for decision.

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<sup>15</sup> *J.H.*, Docket No. 18-1637 (issued January 29, 2020); *X.V.*, Docket No. 18-1360 (issued April 12, 2019).

<sup>16</sup> *C.C.*, Docket No. 18-1453 (issued January 28, 2020).

<sup>17</sup> *K.P.*, Docket 18-0056 (issued January 27, 2020); *see also A.P.*, Docket No. 17-0813 (issued January 3, 2018).

**ORDER**

**IT IS HEREBY ORDERED THAT** the January 4, 2021 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: August 25, 2021  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board